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6  
7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2011-1009*

12 **KRISTA MARIE GUARDI**

**A C C U S A T I O N**

13 **3912 Laurel Canyon Blvd., Apt. 105**  
14 **Studio City, CA 91604**

15 **Registered Nurse License No. 677276**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),  
21 Department of Consumer Affairs.

22 2. On or about April 7, 2006 the Board issued Registered Nurse License Number  
23 677276 to Krista Marie Guardi ("Respondent"). The Registered Nurse License expired on March  
24 31, 2008 and has not been renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
27 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
28 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of  
the Nursing Practice Act.

1       4.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
3 licensee or to render a decision imposing discipline on the license. Under Section 2811  
4 subdivision (b) of the Code, the Board may renew an expired license at any time within eight  
5 years after the expiration.

6       5.     Similarly, Section 118 subdivision (b) of the Code grants the Board jurisdiction over  
7 suspended, expired, forfeited, cancelled, or surrendered licenses:

8               “The suspension, expiration, or forfeiture by operation of law of a license  
9 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
10 order of the board or by order of a court of law, or its surrender without the written  
11 consent of the board, shall not, during any period in which it may be renewed,  
12 restored, reissued, or reinstated, deprive the board of its authority to institute or  
13 continue a disciplinary proceeding against the licensee upon any ground provided by  
14 law or to enter an order suspending or revoking the license or otherwise taking  
15 disciplinary action against the licensee on any such ground.”

### 13                               STATUTORY PROVISIONS

14       6.     Section 2761 of the Code in pertinent part provides grounds for disciplinary action by  
15 the Board.

16               “The board may take disciplinary action against a certified or licensed  
17 nurse or deny an application for a certificate or license for any of the following:

18               (a) Unprofessional conduct, which includes, but is not limited to, the  
19 following:

20               ...

21               (4) Denial of licensure, revocation, suspension, restriction, or  
22 any other disciplinary action against a health care professional license or  
23 certificate by another state or territory of the United States, by any other  
24 government agency, or by another California health care professional  
25 licensing board. A certified copy of the decision or judgment shall be  
26 conclusive evidence of that action.

27               ...

28               (e) Making or giving any false statement or information in connection  
with the application for issuance of a certificate or license.”

### 25                               COST RECOVERY

26       7.     Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee found to have committed a violation or violations of  
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

### 3 **FIRST CAUSE FOR DISCIPLINE**

#### 4 **(Disciplinary Action by the Ohio Board of Nursing)**

5 8. Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) of the  
6 Code because she was disciplined by the Ohio Board of Nursing as follows:

7 9. On or about November 20, 2009, in a consent agreement between Respondent and the  
8 Ohio Board, the Ohio Board disciplined Respondent's Ohio nursing license by placing it on  
9 probation for two years for prior convictions and habitual or excessive use of drugs or alcohol. In  
10 that consent agreement, Respondent admitted that she had four prior criminal misdemeanor  
11 convictions -- in 2008, in 2006, in 2004, and 1991 -- for operating a vehicle under the influence of  
12 alcohol or drugs.

13 10. Under Section 2761 subdivision (a)(4) of the Code, the Ohio Board's disciplinary  
14 action against Respondent for her criminal convictions for operating a vehicle under the influence  
15 is ground for the California Board to take disciplinary action.

### 16 **SECOND CAUSE FOR DISCIPLINE**

#### 17 **(Made a False Statement in Connection with License Renewal)**

18 11. Respondent is subject to discipline under Section 2761 subdivision (e) of the Code  
19 because in connection with her 2005 application for a nursing license in California she made a  
20 false statement in a letter to the Board. The question on the application stated:

21 "Have you ever been convicted of any offense other than minor traffic violations? If  
22 yes, explain fully as described in the application instructions. Convictions must be  
23 reported even if they have been expunged under Penal Code Section 1203.4 or if a  
24 diversion program has been completed under the Penal Code or Article 5 of the  
25 Vehicle Code. Traffic violations involving driving under the influence, injury to  
persons or providing false information must be reported. The definition of conviction  
includes convictions of following a plea of nolo contendere (no contest), as well as  
pleas or verdicts of guilty. YOU MUST INCLUDE MISDEMEANOR AS WELL  
AS FELONY CONVICTIONS."

26 Respondent checked the box indicating "yes" to that question. She then wrote a letter disclosing  
27 a 1997 conviction in Ohio for assault on a police officer. Nowhere in the letter or in the  
28 remainder of her application did she disclose the 2004 and 1991 convictions in Ohio for operating

1 a vehicle under the influence of alcohol, as discussed in paragraph 9 above, realleged and  
2 incorporated herein by this reference. The failure to disclose those convictions in response to the  
3 question posed was a false statement of information in violation of Section 2761 subdivision (e)  
4 of the Code.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
7 and that following the hearing, the Board of Registered Nursing issue a decision:

8 1.1. Revoking or suspending Registered Nurse License Number 677276, issued to Krista  
9 Marie Guardi;

10 1.2. Ordering Krista Marie Guardi to pay the Board of Registered Nursing the reasonable  
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
12 Code Section 125.3; and,

13 1.3. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: June 28, 2011

Louise R. Bailey  
LOUISE R. BAILEY, M.Ed., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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